

Notice of Allowability

Application No.

10/600,971

Examiner

Robin A. Hylton

Applicant(s)

DIAMOND, DAVID W.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed October 8, 2004.
2. ☒ The allowed claim(s) is/are 1,2,4,5,7-11,14-16 and 18-25.
3. ☒ The drawings filed on 20 June 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

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EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Nicholas A. Pandiscio on February 16, 2005.

The application has been amended as follows:

IN THE CLAIMS:

In claim 4, line 8, "radial" has been deleted.

In claim 14, line 11, "radial" has been deleted.

In claim 11, line 16, -- one-half of -- has been inserted after "exceed".

In claim 7, line 1, -- said side wall has a minimum diameter and -- has been inserted after "wherein".

In claim 7, line 2, -- circular -- has been inserted before "recessed".

In claim 7, line 3, -- said recessed center section having a diameter that is between about 30% to about 50% of said minimum diameter of said side wall -- has been inserted after "protuberance,".

2. The following is an examiner's statement of reasons for allowance: the prior art of record does not teach a container and container and lid combination as set forth in the claims. Robinson teaches a container having a central recessed portion surrounded by an annular protuberance forming a circular line contact with a contact surface. However, Robinson does not suggest the circular line contact is such that the container would tip over upon a weight

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placed upon the upper end thereof. Additionally, the cover of Robinson requires modification which does not further render the claims obvious. Wise does not teach nor fairly suggest a container having a central recessed portion surrounded by an annular protuberance forming a circular line contact with a contact surface as set forth in the claims.

The prior art references alone nor in combination does not suggest a container and cover having the features as set forth in the claims, wherein the container will tip over upon a weight being placed on the top of the container. The claims of the instant application set forth in improvement over the prior art containers which are designed to prevent small children from drowning in the contents of a container.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

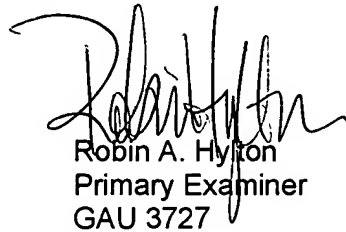
3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin A. Hylton whose telephone number is 571/272-4540. The examiner can normally be reached on flexible, Monday-Friday 9:00 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young can be reached on 571/272-4549. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RAH
March 18, 2005



Robin A. Hyton
Primary Examiner
GAU 3727